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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,993	11/26/2003	Hiroaki Yamamoto	FUJH 20.767 (100794-00516)	7993
26304	7590	08/16/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			LEE, CHUN KUAN	
			ART UNIT	PAPER NUMBER
			2181	

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/723,993

Applicant(s)

YAMAMOTO ET AL.

Examiner

Chun-Kuan (Mike) Lee

Art Unit

2181

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 31 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please see Continuation Sheet below.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_

  
FRITZ FLEMING  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

8/15/2006

In responding to applicant's argument regarding claim 3 rejected under 35 U.S.C. 103 that Nagarajan does not teach a conversion table and specifically where the table modifies the allocation areas of the buffer memory according to the number of service class settings in the service class characteristic table, as stated on page 2, 5th paragraph. Applicant's argument has fully been considered, but is found not to be persuasive.

Claim 3 is rejected by the combined teachings of Applicant's Admitted Prior Art (AAPA) and Nagarajan, where AAPA teaches the use of a table for buffer management control (AAPA, Drawings, Fig. 17, ref. 8) and Nagarajan teaches an algorithm for dynamically allocating and re-allocating (i.e. modifying) of buffers according to the corresponding service class in a multi-class queue network switch (col. 1, ll. 58-61, col. 2, l. 62 to col. 3, l. 6 and col. 3, l. 35 to col. 4, l. 56). Therefore, the resulting combined references teaches the implementation of Nagarajan's algorithm into AAPA's table for buffer management control, resulting in a conversion table which dynamically allocate and re-allocate (i.e. modify) buffers according to the corresponding service class in the multi-class queue system, wherein the corresponding service class may be implemented as a corresponding number, therefore the conversion table would then have the number of service class settings to be utilized for the dynamic buffer allocation and re-allocation.

In responding to applicant's argument regarding claim 2 rejected under 35 U.S.C. 103 that Nagarajan does not teach the transferring of variable IP packets, as stated in 1st and 3rd paragraph on page 3. Applicant's argument has fully been considered, but is found not to be persuasive.

The claimed limitations of claim 2 is taught by AAPA, and further more, Nagarajan's algorithm enable the varying of allocated buffers which could be utilized to implement AAPA's teaching of claim 2, as the allocated buffers can be dynamically re-allocated (not fixed).

In responding to applicant's argument regarding claim 5 rejected under 35 U.S.C. 103 that Bernath fails to indicate the feature of the claimed invention that the correct packet transferring delay is realized with the maximum memory resource efficiency, as stated in the last paragraph on page 3. Applicant's argument has fully been considered, but is found not to be persuasive.

In view the applicant's argument, it appears unclear as to which claimed limitation(s) in claim 5 Bernath fails to teach. As stated in the previous office action, claim 5 is rejected by the combined teaching of AAPA, Nagarajan and Bernath. And further more, please note that the features upon which applicant relies (i.e., the correct packet transferring delay is realized with the maximum memory resource efficiency) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In responding to all applicant's arguments, the examiner maintains his rejection and position.